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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/681,136	10/09/2003	Dae-Sung Han	1594.1289	6464

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EXAMINER

PRICE, CARL D

ART UNIT	PAPER NUMBER
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3749

DATE MAILED: 02/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/681,136	Applicant(s) HAN ET AL.	
	Examiner CARL D. PRICE	Art Unit 3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2005 (RCE filed).
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

In response to applicant's telephone inquiry regarding the last Office action, the following corrective action is taken.

The period for reply of **3 MONTHS** set in said Office Action is restarted to begin with the mailing date of this letter.

The reference **US002996597 (Persinger et al)** was not correctly cited in the last Office action. The correct citation is shown on the attached PTO-892.

A corrected copy of the last Office Action and a corrected Notice of References Cited, Form PTO-892 are enclosed.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on **09/23/2005** has been entered.

Response to Arguments

Applicant's arguments with respect to claims **1-3** and **5-20** have been considered but are moot in view of the new ground(s) of rejection.

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Applicant has amended the claims to be of a scope not previously considered. Consistent with applicant's argument that the prior art relied on in the previous office action fail to show, disclose and/or teach certain aspects of applicant's invention now recited in the claims filed on 09/23/2005, applicant has amended the claims to include, for example, the following:

- The heat blocking member(s) is/are "integrally extending from a reflecting member" of the heating unit(s).

The newly cited prior art references of US002996597 (**Persinger et al**), JP 02-178521 and JP 11-299654, are now relied on to address the scope of the invention now presented in the claims. Most notably, US002996597 (**Persinger et al**) includes the associated elements of a heat blocking member (52A, 52B) integrally extending from a reflecting member (52) of a heating unit (51), a tray (4) grill (28), and cabinet cover. See further discussion of the prior art in the Examiner's action below.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 11 recites the limitation "**both sides**" of the cavity in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1- 3, 5, 7 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by US002996597 (Persinger et al) (newly cited).

US002996597 (Persinger et al) shows and discloses a cooking apparatus comprising:

- a cabinet (10) opened at a top surface thereof to provide an upper opening;
- a grill unit (28) seated in the opening of the cabinet so as to support food over the opening;
- a heating unit (51) installed in the cabinet at a position off set from an effective grill part of the grill unit;
- a reflective tray (40);
- a heat blocking member (52A, 52B) integrally extending from a reflecting member (52) of the heating unit (51) the reflecting member (52) provided:
 - at a rear portion of the heating unit; and the heat blocking member integrally extends from the reflecting member to reflect the thermal energy transmitted from the heating unit(see column 2, lines 44-53: “...to reflect heat **downwardly** in the direction of the firebox ... to reflect heat **upwardly** in the general direction of the grill 28”); the upper opening including a cover member (note the inwardly extending upper wall portion (not referenced; left of “30” figure 1)) spaced apart from the heat blocking member by a predetermined gap to provide an air layer (generally at 52B; figure 3) between the cover member and the heat blocking member; and,

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- the upper opening including a cover member (note the inwardly extending upper wall portion (not referenced; left and upward of “30” figure 1)) spaced apart from the heat blocking member by a predetermined gap to provide an air layer (generally at 52B; figure 3) between the cover member and the heat blocking member.

It is further noted that the cooking apparatus of **US002996597 (Persinger et al)** is arranged to uniformly transmit heat to the comestibles on the grill, and is optionally intended to operate with no fuel (C) present in the lower firebox tray (40). That is, “the electrical heating unit 51 within the base 10 and between the firebox 40 and the grill 28 for the purpose of supplying heat *either* to a charcoal or other combustion fuel in the firebox 40 to aid in its ignition or, *in the absence of such combustible fuel C, to supply heat to the comestibles on the grill*” (see column 2, lines 30-39). In regard to claim 7, when operated only with electrical heating element, with no fuel present in firebox tray (40), the tray inner wall surfaces (i.e. - flat bottom and inclined walls tray) would inherently collect droppings from the grill and reflect radiant heat energy, at least to some degree. Therefore, the tray is deemed the structural and functional equivalent to applicant’s broadly claimed removable “tray with a reflective plate”.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary.

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Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

35 U.S.C. 103(a): Claims

Claims 1-3 and 5-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over **JP 11-299654** (newly cited) in view of **US002996597 (Persinger et al)** (newly cited), **JP 06-154100** (newly cited) and **JP 2002-355178** (of record).

JP 11-299654 shows and discloses a cooking apparatus comprising:

- a cabinet opening (13a) and a downwardly inclined cover (13c) at a top surface thereof to provide an upper opening;
- a grill unit (14) seated in the opening of the cabinet so as to support food over the opening;
- a two opposing heating units (16) installed in the cabinet at a position off set from an effective grill part of the grill unit;
- a tray (2) including a reflective plate (32). The tray having a hump (32), oil grooves (31) and inclined reflective plates to reflect the thermal energy from the heating units to the grill unit. The tray is set at a predetermined position below the opening to collect a material dropping from the food laid on the grill unit and an end of an end cover member (13c) positioned in a space above the tray so as to guide the material dropping from the food to the tray. Water is contained in a drippings tray to prevent an excessive rise in temperature;

JP 11-299654 shows and discloses the invention substantially a set forth in the claims with possible exception to:

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- a heat blocking member integrally extending from a reflecting member of the heating unit. a tray having a hump, oil grooves and defining reflecting plates, and set at a predetermined position below the opening to collect a material dropping from the food laid on the grill unit, and an end of the cover member positioned in a space above the tray so as to guide the material dropping from the food to the tray;
- each of the heating units includes a ceramic member with a heating element to generate the thermal energy;
- the heating units are inclined to tilt toward the opening to transmit the thermal energy to the grill unit;
- a plurality of water tanks and a plurality of hollow grill pipes arranged between the water tanks to connect the water tanks to each other.

US002996597 (Persinger et al) teaches, form applicant's same cooking grill field of endeavor, a cooking apparatus comprising:

- a cabinet (10) opened at a top surface thereof to provide an upper opening;
- a grill unit (28) seated in the opening of the cabinet so as to support food over the opening;
- a heating unit (51) installed in the cabinet at a position off set from an effective grill part of the grill unit;
- a reflective tray (40); and,
- a heat blocking member (52A, 52B) integrally extending from a reflecting member (52) of the heating unit (51).

JP 06-154100 teaches, form applicant's same cooking grill field of endeavor, a cooking apparatus comprising:

- a cabinet (15) opened at a top surface thereof to provide an upper opening;
- a grill unit (5) seated in the opening of the cabinet so as to support food over the opening;

- a upwardly inclined heating units (8) installed in the cabinet at a position off set from an effective grill part of the grill unit and including ;
- a tray (10); and,
- a heat blocking member (at 9) integrally extending from a reflecting member of the heating unit (8).

JP 2002-355178 teaches from the same cooking grill field of endeavor as **JP 11-299654** providing a grill with a plurality of water tanks (2, 3) respectively seated on both sides of the cabinet to contain water; and a plurality of hollow grill pipes (8, 9) arranged between the water tanks to connect the water tanks to each other for cooling he grill to prevent sticking.

In regard to claims 1-3 and 5-20, for the purpose of reflecting heat downwardly in the direction of the tray as well ass to reflect heat upwardly in the general direction of the grill to provide even distribution of heat to the food supporting grill, it would have been obvious to a person having ordinary skill in the art to modify the heat unit of **JP 11-299654** to include a heat blocking member integrally extending from a reflecting member, in view of the teaching of **US002996597 (Persinger et al)**. Alternatively, for the purpose of reflecting providing even distribution of heat to the food supporting grill, it would have been obvious to a person having ordinary skill in the art to modify the heat unit of **JP 11-299654** to include a heat blocking member integrally extending from a reflecting member and to orient the heating unit in an upward direction toward the grill, in view of the teaching of **JP 06-154100**.

In regard to claims 10, 11 and 18-20, Official Notice is taken that it is well known to:

- use ceramic burners, inclined toward a grill, as a suitable source of heat for cooking food (See for example, **US003757765** (both of record)), **US002997941**(of record)), and **UK 2286111** (of record)) and **US003527199** (newly cited);
- provide cooking grills with a timer switch to control an operation time of the heating units (See for example, **US002997941** (of record)); and,

- provide cooking grills with a power switch to control a heating temperature of the heating units (See for example, **US002997941** (of record)).

Thus, in view of that which is well known, it would have been obvious to a person having ordinary skill in the art to modify the heat source of **JP 11-299654** to be an inclined ceramic burner, a timer and power switch.

In regard to claims 9 - 18, for cooling the grill to prevent sticking, it would have been obvious to a person having ordinary skill in the art to modify the grilling surface to **JP 11-299654** to include a plurality of water tanks seated on both sides of the cabinet to contain water; and a plurality of hollow grill pipes arranged between the water tanks to connect the water tanks to each other, in view of the teaching of **JP 2002-355178**.

Conclusion

See the attached USPTO form 892 for prior art made of record and not relied upon which is considered pertinent to applicant's disclosure.

USPTO CUSTOMER CONTACT INFORMATION

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CARL D. PRICE whose telephone number is (571) 272-4880. The examiner can normally be reached on Monday through Friday between 6:30am-3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ehud Gartenberg can be reached on (571) 272-4828. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Carl D. Price', with a stylized, elongated final stroke.

CARL D. PRICE
Primary Examiner
Art Unit 3749

cp